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In re Application of
Lee et al.
Application No. 10/607,052
Filed: 27 June, 2003
Attorney Docket No. P68950USO

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OFFICE OF PETITIONS

In re Application of
Hyeok Kang
Application No. 10/470,609
Filed: 27 June, 2003
Attorney Docket No. P68942USO

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: DECISION GRANTING PETITION

This is a decision on the petition filed on 7 April, 2004, which is treated as a petition under 37 CFR 1.53 to accord the application papers filed with attorney docket No. P68942USO a filing date of 27 June, 2003, and a petition under 37 CFR 1.182 to correct Office records.

The petition is granted.

Petitioner asserts that the above-identified applications, one naming Lee et al. as the inventive entity, and one naming Hyeok Kang as the inventive entity, were both filed in the USPTO on 27 June, 2003. The two applications, however, were given the same Application Number, No. 10/607,052, as indicated on the itemized return receipt postcards for each application, and the application papers for the application designated Attorney Docket No. P68942USO were subsequently lost in the U.S. Patent and Trademark Office.

In support, petitioners present two return postcards, both bearing a USPTO "Office-date" stamp dated 27 June, 2003, and Application No. 10/607,052. One postcard identifies the filing of an application entitled: METHOD FOR FABRICATING SEMICONDUCTOR

DEVICE CAPABLE OF REDUCING SEAM GENERATIONS, by Lee et al., Attorney Docket No. P68950USO, and itemizes the filing of, *inter alia*, 31 pages of specification, including claims and one page of abstract, and 11 sheets of drawings. The other postcard identifies the filing of an application entitled: FLASH MEMORY DEVICE, by Hyeok Kang, Attorney Docket No. P68942USO, and itemizes the filing of, *inter alia*, 21 pages of specification, including claims and abstract, and four (4) sheets of drawings.

The petition was also accompanied by copies of both applications. Petitioners request that both applications be accorded a filing date of 27 June, 2003, and be treated as separate applications.

A review of the official file of Application No. 10/607,052 reveals that 31 pages of specification, including the claims and one page of abstract, and 11 sheets of drawings, for the application filed by Lee et al., Attorney Docket No. P68950USO, were received and processed as the original application papers. No 21 pages of specification, including claims and one page of abstract, and four (4) sheets of drawings of the application filed by Hyeok Kang are located among the application papers received on 27 June, 2003, in the file of Application No. 10/607,052.

In view of petitioners' postcard receipt, the evidence is convincing that the application papers deposited on 27 June, 2003, included, *inter alia*, 21 pages of specification, and 4 sheets of drawings, which were subsequently misplaced in the USPTO. Therefore, the application entitled: FLASH MEMORY DEVICE, by Hyeok Kang, Attorney Docket No. P68942USO was complete on filing and entitled to a filing date of 27 June, 2003.

In view of the above, the petition is granted. No petition fee is due and none has been charged.

The application of Hyeok Kang, Attorney Docket No. P68942USO has been assigned Application No. 10/470,609. All future correspondence regarding this application should reference this number. The application will be processed and examined using the copy of the application papers supplied with the present petition. The copy of the application papers from Application No. 10/607,052 (Lee et al.) filed with the present petition will not be used for processing or examination, but will be retained in the application file.

It is noted that the inventive entity for Application No. 10/607,052, was incorrectly listed in Office files as Hyeok Kang, Sung-Kwon Lee, and Min-Suk Lee. It is obvious that Kang is not listed on the oath or declaration intended for the application naming Sung-Kwon Lee, and Min-Suk Lee, but rather Kang is named as the sole inventor for the application now assigned No. 10/470,609. Therefore, the Office has *sua sponte* corrected the inventorship of Application No. 10/607,052 as listed in Office records.

Application No. 10/470,609 is being forwarded to Office of Initial Patent Examination for further processing with a filing date of 27 June, 2003, using the copy of the specification, claims, and drawings supplied with the present petition.

As Application No. 10/607,052 has been allowed and the issue fee has been paid, the application will be forwarded to Publishing Division for processing into a patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6918.



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